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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Mar 23, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MILNE FRUIT PRODUCTS, INC.,

Plaintiff,

v.

INDIAN SUMMER COOPERATIVE,  
INC.,

Defendant.

No. 4:21-CV-05133-SAB

**ORDER DENYING MOTION  
FOR SUMMARY JUDGMENT**

Before the Court is Defendant's Motion for Partial Summary Judgment, ECF No. 25. The motion was considered without oral argument. Plaintiff Milne Fruit Products, Inc. is represented by Hathaway Burden and J. Chad Mitchell. Defendant Indian Summer Cooperative, Inc. is represented Casey M. Bruner.

Defendant asks the Court to grant summary judgment in its favor on its breach of contract claim and against Plaintiff on its breach of contract claim. Defendant asserts Plaintiff materially breached the parties' agreement and, therefore, it should be excused of any further obligations to perform under the contract. Plaintiff contends there are genuine disputes of fact regarding a reasonable interpretation of the agreement.

Summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). In this case, the Court finds that genuine

**ORDER DENYING MOTION FOR SUMMARY JUDGMENT \*1**

1 disputes of material fact preclude summary judgment on both breach of contract  
2 claims. Granting all justifiable inferences in favor of Plaintiff, Defendant is not  
3 entitled to summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250,  
4 255 (1986).

5 Accordingly, **IT IS ORDERED:**

6 1. Defendant's Motion for Partial Summary Judgment, ECF No. 25,  
7 is **DENIED**.

8 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
9 this Order and to provide copies to counsel.

10 **DATED** this 23rd day of March 2023.



14 Stanley A. Bastian

15 Stanley A. Bastian  
16 Chief United States District Judge  
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